

### **§ 10B-3. Definitions.**

The following definitions apply in this Chapter:

- (1) Acknowledgment. – A notarial act in which a notary certifies that at a single time and place all of the following occurred:
  - a. An individual appeared in person before the notary and presented a record.
  - b. The individual was personally known to the notary or identified by the notary through satisfactory evidence.
  - c. The individual did either of the following:
    - i. Indicated to the notary that the signature on the record was the individual's signature.
    - ii. Signed the record while in the physical presence of the notary and while being personally observed signing the record by the notary.
- (2) Affirmation. – A notarial act which is legally equivalent to an oath and in which a notary certifies that at a single time and place all of the following occurred:
  - a. An individual appeared in person before the notary.
  - b. The individual was personally known to the notary or identified by the notary through satisfactory evidence.
  - c. The individual made a vow of truthfulness on penalty of perjury, based on personal honor and without invoking a deity or using any form of the word "swear".
- (3) Attest or attestation. – The completion of a certificate by a notary who has performed a notarial act.
- (4) Commission. – The empowerment to perform notarial acts and the written evidence of authority to perform those acts.
- (5) Credible witness. – An individual who is personally known to the notary and to whom all of the following also apply:
  - a. The notary believes the individual to be honest and reliable for the purpose of confirming to the notary the identity of another individual.
  - b. The notary believes the individual is not a party to or beneficiary of the transaction.
- (6) Department. – The North Carolina Department of the Secretary of State.
- (7) Director. – The Division Director for the North Carolina Department of the Secretary of State Notary Public Section.
- (8) Jurat. – A notary's certificate evidencing the administration of an oath or affirmation.
- (9) Moral turpitude. – Conduct contrary to expected standards of honesty, morality, or integrity.
- (10) Nickname. – A descriptive, familiar, or shortened form of a proper name.
- (11) Notarial act, notary act, and notarization. – The act of taking an acknowledgment, taking a verification or proof or administering an oath or affirmation that a notary is empowered to perform under G.S. 10B-20(a).
- (12) Notarial certificate and certificate. – The portion of a notarized record that is completed by the notary, bears the notary's signature and seal, and states the facts attested by the notary in a particular notarization.

- (13) Notary public and notary. – A person commissioned to perform notarial acts under this Chapter. A notary is a public officer of the State of North Carolina and shall act in full and strict compliance with this act.
- (14) Oath. – A notarial act which is legally equivalent to an affirmation and in which a notary certifies that at a single time and place all of the following occurred:
  - a. An individual appeared in person before the notary.
  - b. The individual was personally known to the notary or identified by the notary through satisfactory evidence.
  - c. The individual made a vow of truthfulness on penalty of perjury while invoking a deity or using any form of the word "swear".
- (15) Official misconduct. – Either of the following:
  - a. A notary's performance of a prohibited act or failure to perform a mandated act set forth in this Chapter or any other law in connection with notarization.
  - b. A notary's performance of a notarial act in a manner found by the Secretary to be negligent or against the public interest.
- (16) Personal appearance and appear in person before a notary. – An individual and a notary are in close physical proximity to one another so that they may freely see and communicate with one another and exchange records back and forth during the notarization process.
- (17) Personal knowledge or personally know. – Familiarity with an individual resulting from interactions with that individual over a period of time sufficient to eliminate every reasonable doubt that the individual has the identity claimed.
- (18) Principal. – One of the following:
  - a. In the case of an acknowledgment, the individual whose identity and due execution of a record is being certified by the notary.
  - b. In the case of a verification or proof, the individual other than a subscribing witness, whose:
    - i. Identity and due execution of the record is being proven; or
    - ii. Signature is being identified as genuine.
  - c. In the case of an oath or affirmation, the individual who makes a vow of truthfulness on penalty of perjury.
- (19) Record. – Information that is inscribed on a tangible medium and called a traditional or paper record.
- (20) Regular place of work or business. – A location, office or other workspace, where an individual regularly spends all or part of the individual's work time.
- (21) Revocation. – The cancellation of the notary's commission stated in the order of revocation.
- (22) Satisfactory evidence. – Identification of an individual based on either of the following:
  - a. At least one current document issued by a federal, state, or federal or state-recognized tribal government agency bearing the photographic image of the individual's face and either the signature or a physical description of the individual.
  - b. The oath or affirmation of one credible witness who personally knows the individual seeking to be identified.

- (23) Seal or stamp. – A device for affixing on a paper record an image containing a notary's name, the words "notary public," and other information as required in G.S. 10B-37.
- (24) Secretary. – The North Carolina Secretary of State or the Secretary's designee.
- (25) Repealed by Session Laws 2006-59, s. 1, effective October 1, 2006, except as otherwise set forth in the act, and applicable to notarial acts performed on or after October 1, 2006.
- (26) Subscribing witness. – A person who signs a record for the purpose of being a witness to the principal's execution of the record or to the principal's acknowledgment of his or her execution of the record. A subscribing witness may give proof of the execution of the record as provided in subdivision (28) of this section.
- (27) Suspension and restriction. – The termination of a notary's commission for a period of time stated in an order of restriction or suspension. The terms "restriction" or "suspension" or a combination of both terms shall be used synonymously.
- (28) Verification or proof. – A notarial act in which a notary certifies that all of the following occurred:
  - a. An individual appeared in person before the notary.
  - b. The individual was personally known to the notary or identified by the notary through satisfactory evidence.
  - c. The individual was not a party to or beneficiary of the transaction.
  - d. The individual took an oath or gave an affirmation and testified to one of the following:
    - i. The individual is a subscribing witness and the principal who signed the record did so while being personally observed by the subscribing witness.
    - ii. The individual is a subscribing witness and the principal who signed the record acknowledged his or her signature to the subscribing witness.
    - iii. The individual recognized either the signature on the record of the principal or the signature on the record of the subscribing witness and the signature was genuine. (1991, c. 683, s. 2; 1998-228, s. 2; 2005-391, s. 4; 2006-59, s. 1.)